REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 2-15 are pending, Claim 1 having been cancelled, Claims 2-14 having been amended and Claim 15 having been added by way of the present amendment. Support for the amendments to the original claims is found in the specification (see, e.g. page 25, lines 9-16). Furthermore, Claims 2-14 have been amended to avoid a construction under 35 USC §112, sixth paragraph. Claim 15 is drafted to be in a different format than Claim 1, namely one that avoids a construction under 35 U.S.C. § 112, sixth paragraph. Therefore no new matter is added.

In the outstanding Office Action, Claims 1-3, 5, 6 and 10-14 were rejected as being anticipated by Wong et al. (WO 99/03290, hereinafter "Wong"); and Claims 4 and 7-9 were rejected as being obvious over Wong in view of Korpela et al. (U.S. Patent Publication No. 2001/0031638, hereinafter Korpela).

In an effort to further explain the difference between the presently claimed invention and the asserted prior art, a brief description of the invention described in Claim 15 is believed to be in order. Claim 15 is directed to a mobile station. It includes a measuring device that measures received levels of a serving cell and each neighboring cell thereto. The mobile station also includes a cell class determiner that determines cell types of the current and neighboring cells. The cell class determiner (see, e.g., Figure 3 as a non-limiting example) determines the cell types based on identification information transmitted from the serving cell. The mobile station also includes a cell selector that selects a cell as a reselection target based on received levels measured by the measuring device and the cell types determined by the cell type determiner.

An advantage with the presently claimed invention, is that it allows for a reporting of different candidate cell types that are available to a particular mobile user. As a consequence, if the serving cell informs the mobile station that certain cell types are available for use by that particular cell, then the mobile station may reselect a different serving cell consistent with its objectives (see., e.g. discussion beginning at page 3 to page 4).

To highlight the differences between Claim 15 and Wong, Claim 15 includes a cell class determiner that determines the cell types based on identification information transmitted from the serving cell. Wong is directed to a system that allows a mobile user to maintain registration with a private network even when roaming (see, e.g., page 2, lines 15-22). More particularly, Wong allows a mobile station to switch between a public network, and a private network which operate on different control channels to avoid interference (see, e.g., page 4, lines 3-10). In Wong, the burden is on the telephone to include a neighbor list of frequencies associated with the macrocell sites and the microcell sites (the macrocell sites being in one network and the microcell sites being in the other network (page 3, lines 25-27)). The mobile station includes a reselection algorithm is able to select a particular type of cell (e.g., a microcell) for use if it is within the operating range of the microcell. However, the burden is on the mobile station to include a list of frequencies associated with the different macrocells and microcells, and it is on this basis that the mobile station is able to distinguish between different macrocells and microcells.

In the rejection of Claim 1 (now construed against Claim 15), the outstanding Office Action asserts that "there must be a determining means in order to be able to differentiate between the cell types" (see page 9, lines 1-5)" (Office Action page 3, first two lines). Such a determining means would place the burden on the mobile station to distinguish cells in a private network from cells in a public network. It does this by requiring that the mobile station include a "neighbor list" that lists frequencies associated with the macrocells and

microcells (page 3, lines 25-27). The invention defined by amended Claim 15 does not place the burden on the mobile station because the serving cells transmit the identification information regarding cell types. Thus the burden is on the serving cell and not on the mobile station itself. This is valuable since the mobile station need not be aware of its particular location nor its relation between adjacent cell sites in order to select more preferable types of cells.

Wong cannot provide the claimed cell class determiner based on information transmitted from the serving cell because the primary objective in Wong is to allow a mobile station to switch between a private network and a public network. Therefore, a cell in a public network would have no motivation for transmitting cell type information regarding "private cells" available to the mobile station.

Therefore, it is respectfully submitted that amended Claim 15 patentably defines over Wong. Moreover, Wong fails to teach or suggest the cell class determiner.

Although of differing statutory class and/or scope, it is respectfully submitted that Claims 2-3, 5, 6 and 10-15, as amended, also patentably define over Wong for substantially the same reasons discussed above with regard to amended Claim 1.

Korpela is asserted for its disclosure of "counting means" and "changing means" as claimed. Even though the use of "means plus function" language has been eliminated from the claims, assuming *arguendo* that Korpela does disclose these features, Korpela does not cure the deficiencies discussed above with regard to Claim 15 and the other pending claims. Therefore, no matter how Korpela is combined with Wong, the combination does not teach or suggest all of the features of Claims 4 and 7-9.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 2-15 as amended patentably defines over the asserted prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 03/06)

BDL/law/maj
I:\ATTY\BDL\24s\244151US\244151US.AM_040407.DOC